



COMMONWEALTH of VIRGINIA

Matthew J. Strickler
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
Blue Ridge Regional Office
3019 Peters Creek Road, Roanoke, Virginia 24019
(540) 562-6700; Fax (540) 562-6725
www.deq.virginia.gov

David K. Paylor
Director

Robert J. Weld
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - CONSENT SPECIAL ORDER ISSUED TO U. S. PAVING SOLUTIONS, LLC

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and U.S. Paving Solutions, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permits and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means U.S. Paving Solutions, LLC, Registration No. 21621, located at 3127 Carroll Avenue, Lynchburg, Virginia.

6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as an "Order by Consent" or "Consent Order", a type of Special Order under the Virginia Air Pollution Control Law.
8. "PCE" means a Partial Compliance Evaluation performed by DEQ staff.
9. "Permit" means the Minor NSR Permit, Registration No. 21621, which was issued under the Virginia Air Pollution Control Law and Regulations to U.S. Paving Solutions, LLC on December 12, 2017.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "U.S. Paving" means U.S. Paving Solutions, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. U.S. Paving is a "person" within the meaning of Va. Code § 10.1-1300.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. U.S. Paving Solutions, LLC ("U.S. Paving"), of Lynchburg, Virginia owns and operates a Mini-Batch Asphalt Mix Plant ("Facility"), which is located at 3127 Carroll Avenue.
2. The Facility consists of a 2mmBtu/hr. natural gas fired aggregate dryer, a 1mmBtu/hr. natural gas fired liquid asphalt heater, hot elevator, hot screen, and hot storage bins.
3. The Department of Environmental Quality ("Department") issued the Permit to U.S. Paving; which allows operations and emissions in strict accordance with its terms.
4. On July 18, 2017, Mr. Tim Dantas, owner and operator of the Facility, contacted DEQ Blue Ridge Regional Office ("BRRO") air compliance staff by email to explain that he planned to install and operate a mini-batch asphalt mix plant. Mr. Dantas was specifically inquiring as to whether he would be required to obtain an air permit from DEQ in order to install and operate the Facility. Department staff responded to Mr. Dantas by email on July 18, 2017, and explained to Mr. Dantas that he needed to speak with air permitting

staff at BRRO about permitting requirements. Compliance staff also explained that, at that time, the main compliance concern for him to be aware of was the need to have a final permit in hand before beginning construction.

5. The Department of Environmental Quality ("Department" or "DEQ") received an Air Permit application from Mr. Dantas on October 11, 2017 for review and processing. Additional information for the application was received on November 14, 2017, and the application was deemed complete. The application was processed and a Minor NSR Permit was issued to U.S. Paving on December 12, 2017.
6. Although U.S. Paving was not issued a Permit until December 12, 2017, the facility was installed on November 19, 2017.
7. On December 20, 2017, Department staff conducted a Partial Compliance Evaluation ("PCE") on the Facility, which was not in operation at that time.
8. The Department issued Notice of Violation ("NOV") number ABRRO000768 to US Paving Solutions, LLC on December 20, 2017 for failing to obtain a Permit prior to constructing the Facility.
9. On January 24, 2018, DEQ held an enforcement meeting with Mr. Dantas at BRRO to discuss the proposed enforcement action and civil charge.
10. VAC 5-80-1120 A. states, no owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article. The owner may not construct or operate the stationary source or project contrary to the terms and conditions of that permit.
11. Based on the results of the PCE conducted by Department staff, the Permit application and documentation submitted to the Department by Mr. Dantas, and the meeting with Mr. Dantas on January 24, 2108, the Board concludes that U.S. Paving has violated 9 VAC 5-80-1120 A., as described, above.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 10.1-1309 and -1316 and upon consideration of Va. Code § 10.1-1186.2, the Board orders U.S. Paving Solutions, LLC, and U.S. Paving Solutions, LLC agrees to:

1. Pay a civil charge of \$2,275.00 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount
Within 30 days of the effective date of this Order	\$1,137.00
Within 60 days of the effective date of this Order	\$1,137.00

2. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by U.S. Paving Solutions, LLC. Within 15 days of receipt of such letter, U.S. Paving Solutions, LLC shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

U.S. Paving Solutions, LLC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of U.S. Paving for good cause shown by U.S. Paving, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, U.S. Paving admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies the findings of fact, and conclusions of law in this Order.
4. U.S. Paving consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. U.S. Paving declares that they have received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and they waive the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by U.S. Paving to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the
7. Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
8. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
9. U.S. Paving shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. U.S. Paving shall demonstrate that such circumstances were beyond their control and not due to a lack of good faith or diligence on their part. U.S. Paving shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which U.S. Paving intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

10. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and U.S. Paving Solutions, LLC.
12. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after U.S. Paving has completed all of the requirements of the Order;
 - b. U.S. Paving petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to U.S. Paving.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve U.S. Paving from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

13. Any plans, reports, schedules or specifications attached hereto or submitted by U.S. Paving and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
14. The undersigned representative of U.S. Paving certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind U.S. Paving to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of U.S. Paving.
15. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By their signature below, U.S. Paving Solutions, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of August, 2018.



Robert J. Weld, Regional Director
Department of Environmental Quality

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U.S. Paving Solutions, LLC voluntarily agrees to the issuance of this Order.

Date: 8/8/18 By: [Signature], PRESIDENT
Tim Dantas President

Commonwealth of Virginia

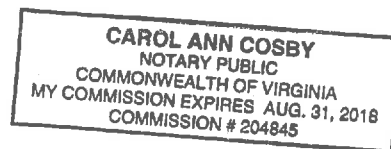
City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 8th day of
August, 2018, by Tim Dantas who is
President of U.S. Paving Solutions, LLC, on behalf of
U.S. Paving Solutions, LLC.

[Signature]
Notary Public
204845
Registration No.

My commission expires: 08/31/2018

Notary seal:



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